

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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OFFICE OF THE CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
vs.)
Plaintiff,) 8:06 CV 252-TDT
\$120,088.00 IN UNITED STATES)
CURRENCY,)
Defendant.)
LUIS CAMAY-ALVARADO,)
Claimant.)

STIPULATION AND REQUEST FOR MANDATORY STAY

UNDER 21 U.S.C. §881(i); 18 U.S.C. §981(g)(2); [PROPOSED] ORDER THEREON

WHEREAS Plaintiff, United States of America (the “Government”) filed this forfeiture action against the Defendant \$120,088.00 in U.S. Currency (the “Defendant currency”) on the grounds that it was used or intended to be used to commit or facilitate the commission of violations of Title 21, U.S.C. §§841 and 844 and, therefore, that it is subject to forfeiture to the United States pursuant to Title 21, United States Code, §881(a)(6);

WHEREAS the Government has caused process to be served on the Defendant currency, and notice to be published, and service to be made on Claimant, Luis Camay-Alvarado;

WHEREAS Claimant Luis Camay-Alvarado has filed his verified Statement Identifying Right or Interest demanding restitution of the Defendant currency, as well as his Answer to the Government's forfeiture action, and timely Demand for Jury Trial;

WHEREAS Claimant Luis Camay-Alvarado was charged by a federal grand jury in CR - 01136-RSWL in the Central District of California (Western Division-Los Angeles), with conspiracy to distribute and possess with intent to distribute controlled substances (21 U.S.C. §§846, 841(a)(1), 841(b)(1)(A) and 18 U.S.C. §§1956(h), and 1956(a)(1)(A)(I), conspiracy to launder monetary instruments on November 22, 2005;

WHEREAS on July 3, 2006, Claimant Luis Camay-Alvarado entered a guilty plea in CR - 01136-RSWL and is now scheduled for sentencing in the Central District of California on November 13, 2006;

WHEREAS Claimant Luis Camay-Alvarado retains his Fifth Amendment privileges not to be called as a witness and not to incriminate himself through and including his sentencing date (e.g., Mitchell v. United States, 526 U.S. 314, 322, 119 S.Ct. 1307, 1313 (1999), citing Estelle v. Smith, 451 U.S. 454, 462, 101 S.Ct. 1866 (1981)), and Claimant believes that raising his Fifth Amendment privilege in this quasi-criminal punitive civil in rem forfeiture action may preclude him from adequately contesting the Government's claim for forfeiture in this action

while not raising his privileges may jeopardize his right to defend himself through the time of sentencing in the related criminal case;

WHEREAS 21 U.S.C. §881(i) provides that the provisions of §981(g) of Title 18 regarding the stay of a civil forfeiture proceeding shall apply to forfeitures under this section, and 18 U.S.C. §981(g)(2) provides that the Court shall stay the civil forfeiture proceeding with respect to that Claimant if the Court determines that –

- (A) the claimant is the subject of a related criminal investigation or case;
- (B) the claimant has standing to assert a claim in the civil forfeiture proceeding; and
- (C) continuation of the forfeiture proceeding will burden the right of the claimant against self-incrimination in the related criminal investigation or case. . . . , and claimant fully satisfies each of these criteria;

IT IS STIPULATED by the Government and Claimant Luis Camay-Alvarado as follows:

1. This forfeiture action shall be stayed to and including November 13, 2006; and

2. Counsel for the parties shall promptly advise the Court when the sentencing in the related criminal case has been completed.

Dated:

7/20/06

UNITED STATES OF AMERICA

Plaintiff

MICHAEL G. HEAVICAN

United States Attorney

By:


NANCY A. SVOBODA (#17429)

Assistant U.S. Attorney

1620 Dodge Street, Suite 1400

Omaha, Nebraska 68102-1506

(402) 661-3700

Dated:

7/17/06

LUIS CAMAY-ALVARADO

Claimant

By:


PAUL L. GABBERT (CASBN 74430)

2115 Main Street

Santa Monica, California 90405

(310) 399-3259

[PROPOSED] ORDER

GOOD CAUSE APPEARING THEREFOR,

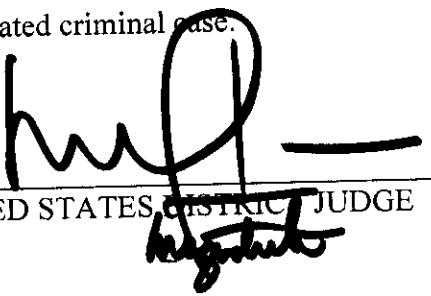
It is hereby ordered that:

1. This forfeiture action is stayed to and including November 13, 2006.
2. Counsel for the parties shall promptly advise the Court when Claimant Luis Camay-

Alvarado's sentencing has been completed in the related criminal case.

Dated:

7/21/06


UNITED STATES DISTRICT JUDGE